

c) REMARKS:

The claims are 1-4 and 6-13 with claim 1 being the sole independent claim. Claim 5 has been cancelled without prejudice or disclaimer. Claim 1 has been amended to include the features of cancelled claim 5 and to improve its form. Claim 7 has been amended to improve its form and to reflect the cancellation of claim 5. Claims 8, 9, 11 and 13 have also been amended to reflect the cancellation of claim 5. No new matter has been added. Reconsideration of the claims is expressly requested.

Claims 1-13 stand rejected as allegedly being an obviousness-type double patenting over claims 1-17 of U.S. Patent No. 7,153,622 B2. This rejection is respectfully traversed.

Applicants respectfully submit that the present claims are clearly patentably distinct from the claims of the ‘622 patent. Specifically, as recited in present claim 1, the charge control agent is used for controlling a charge of a toner for developing electrostatic charge images. The claims of the ‘622 patent do not recite a charge control function nor a toner as an object of the charge control action. Thus, the double patenting rejection should be withdrawn.

Claims 1-13 stand provisionally rejected as being allegedly an obviousness-type double patenting over claims 1-3 of Application No. 10/532,136. This rejection is also respectfully traversed.

In the Office Action, the Examiner alleged that formula (6) in claim 1 of the ‘136 application can include the same unit as in the present application. However, claim 1 of the ‘136 application requires one unit selected from formulas (1) and (2) and one unit selected formulas (3) to (6). Accordingly, Applicants see no potential conflict between the claims since there is no overlapping in scope of the claimed subject matter. The claims of the ‘136 application require

either formula (1) or (2) and one of formulas (3) to (6). This means that employing merely formula (6) would not present a conflict with the claims of the ‘136 application.

Likewise, practicing the claims of the ‘136 application would not necessarily conflict with the claims of the present application since the present claims require a charge control agent to control the charge of a toner for developing electrostatic charge images. The polyhydroxyalkanoate copolymer of the ‘136 application can be employed as a molded article. In addition, when used in a toner, the present copolymer acts as a binder resin for forming the powder or granular material. The ‘136 application, in paragraph [0191] of its publication U.S. 2006/0040196 A1, discloses that electrical charge controlling agents and other additives can be added, as well as the instant binder resin. In paragraph [0201], commonly used electric charge controlling agents are disclosed, which can be combined with the copolymer. The present claims are distinguished from the ‘136 application claims since the compound is claimed as a charge control agent. In the ‘136 application, the compound is a binder resin and charge control agents are added to it. Therefore, Applicants respectfully submit that the present claims are patentably distinct from the claims in the ‘136 application.

Wherefore, in view of the above amendment and remarks, the claims should be allowed and the case passed to issue.

Applicants' undersigned attorney may be reached in our New York office by telephone at (212) 218-2100. All correspondence should continue to be directed to our below listed address.

Respectfully submitted,

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